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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,051	11/01/2001	Anil K. Kumar	884.550US1	9605

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EXAMINER

BARNIE, REXFORD N

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/000,051

Applicant(s)

KUMAR ET AL.

Examiner

REXFORD N BARNIE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 01 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

R. N. Barnie
REXFORD BARNIE
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 16-19, 21 and 30-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Souissi et al. (US Pat# 6,556,817).

Regarding claim 1, Souissi teaches a method of initiating a communication session comprising: determining a cost estimate of a communication session based on quality of service level and a quantity of information to be communicated and initiating the communication session after the cost estimate is determined in (see col. 8, fig. col. 14 line 37-col. 15 line 8).

Regarding claims 2, 17, 18, 21 and 31, Souissi teaches the claimed subject matter in (see col. 8 lines 55-59).

Regarding claim 16, Souissi teaches a method of initiating a communication session comprising: determining a cost estimate of a communication session based on quality of service level and a quantity of information to be communicated and initiating the communication session after the cost estimate is determined in (see col. 8, fig. col. 14 line 37-col. 15 line 8).

Regarding claim 19, Souissi teaches a method of initiating a communication session comprising: determining a cost estimate of a communication session based on quality of service level and a quantity of information to be communicated and initiating the communication session after the cost estimate is determined in (see col. 8, fig. col. 14 line 37-col. 15 line 8).

Regarding claim 30, Souissi teaches a method of initiating a communication session comprising: determining a cost estimate of a communication session based on quality of service level and a quantity of information to be communicated and initiating the communication session after the cost estimate is determined in (see col. 8, fig. col. 14 line 37-col. 15 line 8).

Claims 1, 3, 19 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Yeh (US Pat# 6,690,929).

Regarding claims 1, 19 and 30, Yeh teaches a dynamic quality of service and pricing in communication system, which comprises of determining a cost estimate based on quality of service and bandwidth requirement and initiating a communication session after the cost estimate is determined in (see claims).

Regarding claim 3, Yeh teaches the claimed subject matter.

Claims 22 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Walter et al. (US 2002/0022471).

Regarding claim 22, Walter et al. teaches a method and system for data rating for wireless devices in ([0010], [0016-0019], pages 3-5).

Regarding claim 24, Walter et al. teaches estimating cost of services provided to a mobile user by using its internal means

Claims 22, 24, 28 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Preston et al. (US 2002/0155823).

Regarding claim 22, Preston teaches in (see figs including fig. 10) the claimed apparatus which functions to provide cost based on QOS and quantity of information transmitted.

Regarding claim 24, Preston teaches estimating cost of services provided to a mobile user by using its internal means

Regarding claims 28-29, Preston teaches the claimed subject matter in (see pages 2-4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Souissi et al. (US Pat# 6,556,817) in view of Robertson (US Pat# 6,463,274) or Gnesda et al. (US Pat# 6,721,554).

Regarding claims 3 and 32, Souissi fails to teach the claimed subject matter in detail.

Robertson teaches a multiple class of service determination for digital cellular where network resources are taken into account when providing quality of service in (see disclosure).

Gnesda teaches a method and apparatus for policy based charging for services wherein network resources can play a factor in determining quality of services for communication services in (see disclosure).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of either Gnesda or Robertson into that of Souissi thus making it possible to provide incentives including least cost and the ability to transmit multi-media services.

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Claims 4 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Souissi et al. (US Pat# 6,556,817) in view of Robertson (US Pat# 6,463,274) or Gnesda et al. (US Pat# 6,721,554) and further in view of Stinson (US Pat# 6,493,556).

Regarding claim 4, The combination fails to teach the claimed subject matter in detail.

Stinson teaches an apparatus and method for message routing using disparate communication networks wherein networks can be analyzed for QOS and cost to be used in determining a least cost carrier in (see figs, coll. 2 line 59-col.3 and col. 5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Stinson into that of the combination thus making it possible to provide incentives including least cost and the ability to transmit multi-media services.

Regarding claims 9-12, The combination renders the claimed subject matter obvious.

Claims 5 and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Souissi et al. (US Pat# 6,556,817) in view of Robertson (US Pat# 6,463,274) or Gnesda et al. (US Pat# 6,721,554) and further in view of Preston et al. (US 2002/0155823).

Regarding claim 5, The combination fails to teach the claimed subject matter but Preston teaches a method and apparatus for monitoring packet-based communications in a mobile environment in (see figs.) wherein a memory can store rate and QOS data.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Preston into that of the combination thus making it possible to provide incentives including least cost and the ability to transmit multi-media services.

Regarding claims 9-12, The combination renders the claimed subject matter obvious.

Regarding claims 13-14, the combination including Robertson or Preston teaches the claimed subject in (see cols. 1-2 of Robertson or page 2[0031]-page 3[0032-0037]) of Preston).

Regarding claim 15, the combination including Souissi teaches the claimed subject matter and so does Preston.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Souissi et al. (US Pat# 6,556,817) in view of Robertson (US Pat# 6,463,274) or Gnesda et al. (US Pat# 6,721,554) and further in view of Preston et al. (US 2002/0155823) and further in view of Walter et al. (US 2002/0022471).

Regarding claims 6-8, the combination fails to teach using a prepaid account when making a call.

Walter teaches a prepaid account, which can be used in making, calls and so forth in (page 2 [0021]). Furthermore, the examiner takes official notice that prepaid account can be in the form of a SIM card in a mobile phone and also, it's known to allow

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communication if an account has enough funds to make a call and if an account reaches a certain level (zero or a few cents for instance) discontinuing a call.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Walter into that of the combination thus making it possible to prevent fraudulent usage and loss of revenue.

Claims 20, 26, 27 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Souissi et al. (US Pat# 6,556,817) in view of Walter et al. (US 2002/0022471).

Regarding claims 20 and 33, Souissi fails to teach using a prepaid account when making a call.

Walter teaches a prepaid account, which can be used in making, calls and so forth in (page 2 [0021]). Furthermore, the examiner takes official notice that prepaid account can be in the form of a SIM card in a mobile phone and also, it's known to allow communication if an account has enough funds to make a call and if an account reaches a certain level (zero or a few cents for instance) discontinuing a call.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Walter into that of the combination thus making it possible to prevent fraudulent usage and loss of revenue.

Regarding claims 26-27, see the explanation as set forth in the rejection of claim 20 in addition to the fact that a balance on an account may be used for some services even though, it might have a few units, for instance one could make a domestic long

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distance calls whereas one might not have enough funds for an international call using the same account.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Preston et al. (US 2002/10155823) in view of Souissi et al. (US Pat# 6,556,817).

Regarding claim 23, the combination fails to teach the claimed subject matter in detail but Souissi teaches a communication system wherein a plurality of cost or rate associated with QOS and content of data can be alerted to a user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Walter into that of Preston thus making it possible to provide services to users at a desirable cost.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Preston et al. (US 2002/0155823) in view of Mueller et al. (US Pat# 6,185,413).

Regarding claim 25, The combination fails to teach the claimed subject matter but Mueller teaches a mobile station having cost-efficient call management method and system in (see fig. 1, col. 10), a means can query for charge data associated with different carriers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Mueller into that of Preston thus making it possible to get the latest or up-to-date charge information when communicating to make a decision.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **REXFORD N BARNIE** whose telephone number is (703)306-2744. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRIMARY EXAMINER
REXFORD BARNIE
01/18/05


REXFORD BARNIE
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